

IN THE SUPREME COURT OF INDIA  
CIVIL WRIT PETITION No. 829 OF 2013

Mr. S.G.Vombatkere & Anr.

.. Petitioners

Versus

Union of India & Ors.

.. Respondents

MAIN HEADS OF CHALLENGE

- (i) The UID project is destructive of limited government which is built into the Constitutional scheme and is part of the Basic Structure of the Constitution of India. Limited government is transgressed by breaching bounds of personal autonomy guaranteed to every person under the Constitution. There is no statute to back the impugned project but even if there were one the statute would be *ultra vires* the Constitution.
- (ii) The Constitution balances the functioning of the State against individual freedoms and rights. Whenever the State seeks to impinge upon fundamental rights, its actions must be backed by statute and not mere executive fiat. Here, the action under the impugned project of collecting personal biometric information without statutory backing is *ultra vires* even where an individual "voluntarily" agrees to part with biometric information.
- (iii) The project is also *ultra vires* because there is no statutory guidance (a) on who can collect biometric information; (b) on how the information is to be collected; (c) on how the biometric information is to be stored; (d) on how throughout the chain beginning with the acquisition of biometric data to its storage and usage, this data is to be protected; (e) on who can use the data; (f) on when the data can be used.
- (iv) The project is also *ultra vires* because under the constitutional scheme any action by the State that could potentially impinge on an individual's freedom must be backed by statute.
- (v) The procedure adopted by the Respondents is arbitrary and violative of Article 21 because
  - (a) There is no informed consent;
  - (b) Individuals are not told about crucial aspects such as potential misuse of the information, the absence of any statutory protection, the commercial value of the information,



- (c) Private parties collect biometric information without safeguards;
- (d) The enrolment is based on a flawed introducer system and verifier system; and
- (e) There is no government security of stored data.
- (f) The 'contractual' relationships entered into by UIDAI are violative of Article 299 of the Constitution of India.
- (vi) The impugned project as implemented coerces individuals to part with biometrics.
- (vii) The project violates the right to privacy.
- (viii) The project is arbitrary and illegal inasmuch as it allows private dominion over biometrics without governmental control thereby compromising personal security and national security.
- (ix) Assuming the Constitution permits the State to collect and store biometric data of all residents, the Constitutional scheme requires that dominion over biometrics of Indian citizens and residents is a core, non delegable function of the State that cannot be privatized.
- (x) The impugned project enables surveillance of individuals, and thereby violates Articles 14 and 21.
- (xi) The impugned project as implemented violates the right to human dignity which is a facet of Article 21.
- (xii) The impugned project compromises citizenship.
- (xiii) The failure to provide an "opt out" option violates individual autonomy and dignity guaranteed under Article 21.
- (xiv) The foundation of the project i.e. biometrics is an unreliable and untested technology. Moreover, biometric exceptions severally erode reliability.
- (xv) Public funds are being channeled to private enterprises without sufficient validation and study that biometric verification works.

